

**KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS**  
**MEETING MINUTES**  
**March 11, 2022**

A regular meeting of the Kentucky Board Chiropractic Examiners was held at the Department of Professional Licensing located at 500 Mero Street, Frankfort, KY 40601 and via Zoom on March 11, 2022.

**MEMBERS PRESENT**

Dr. Kelly Cooper-Henson (joined at 12:08)  
Dr. Chad Henderson (joined at 12:11)  
Dr. James England  
Dr. Shannon Johnson  
Dr. Jeffery Smith

**DEPARTMENT OF PROFESSIONAL LICENSING**

Kevin Winstead, Commissioner  
Tasha Stewart, Administrative Section Supervisor

**OTHERS**

August Pozgay, Public Protection Cabinet  
Office of Legal Services, Board Counsel

**GUESTS**

Dr. Rachel Wendt, KAC

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**CALL TO ORDER**

Dr. Smith called the meeting to order at 12:00 p.m.

**MINUTES**

A motion was made by Dr. Johnson to approve the minutes from the January 21, 2022 board meeting. Motion seconded by Dr. England, carried.

**FINANCIAL STATEMENT**

The board reviewed the January and February 2022 financial statements. No action taken.

**DPL UPDATE**

Commissioner Winstead stated the Legislature has adopted SJR 150 stating the state of emergency is over. Legal is researching how this effects the board.

Commissioner Winstead presented the DPL MOA, effective two fiscal years and decreased in price by \$45,000. Dr. Smith made a motion to approve the MOA as presented. Motion seconded by Dr. England, carried.

Commissioner Winstead presented the OLS MOA, effective two fiscal years with no cost changes. Dr. Johnson made a motion to approve the MOA with amendments of a two year period and a cap of \$60,000. Motion seconded by Dr. Henderson, carried.

DPL will issue state email addresses to all board members due to a recent circuit court decision regarding open records. This email will be used for all official board duties.

Office of Information Technology (IT) is developing within the next three-six months a CE functionality feature so licensees can upload CE courses 24/7 in their eServices accounts.

Hybrid board meetings will continue. Face coverings are no longer required in DPL's building.

HB 91 was introduced in the Legislature and would change an existing statute so current military members and their spouses will not pay application or renewal fees.

HB 188, if passed, would stipulate that a board could not prohibit a person licensed in Kentucky from providing telehealth services to an established patient temporarily out of the state. Likewise, someone not licensed in Kentucky could provide telehealth services to established patients who are temporarily in Kentucky. Counsel recommended the board refer to the regulations committee for further research.

Dr. Smith made a motion to refer the topic of telehealth to the regulations committee for review. Motion seconded by Dr. England, carried.

## **LEGAL COUNSEL**

Mr. Pozgay advised some board appointments are ending soon and the board may need to take action.

DPL has a new general counsel, Clayton Patrick, and OLS continues to work with him on all legal matters.

## **OLD BUSINESS**

Mr. Pozgay provided an analysis update on the EPSDT exam question. Dr. Johnson made a motion for Counsel to draft and issue a standard response suggesting the individual consult with the Medicaid agency. Motion seconded by Dr. England, carried.

Dr. England made a motion for the board administrator to draft a letter for Chair's approval to trade organizations and any other peer review course provider requesting they share KBCE's peer review committee vacancies with their attendees. Motion seconded by Dr. Johnson, carried.

The board reviewed a nerve study question. Dr. England made a motion for Counsel to draft a letter advising the board cannot reach a decision with the information provided and the individual should stay within their scope of practice and consult their own legal counsel. Motion seconded by Dr. Henderson, carried.

## **NEW BUSINESS**

Dr. Henderson made a motion to nominate Dr. Cooper-Henson for the Part IV Examination Spring on May 14-15, 2022, nominate Dr. Johnson for the Part IV Test Development Committee on June 10-11, 2022, and nominate Dr. Cooper-Henson for the Part IV Examination Fall on November 12-13, 2022. Motion seconded by Dr. England, carried.

The board tabled the discussion of sending representatives to NBCE's question formation meetings until further information is received.

Dr. England made a motion to ratify Dr. Smith's nomination for Dr. Johnson to attend the Part III & PHT Test Development Committee on April 1-2, 2022. Motion seconded by Dr. Henderson, carried.

Dr. Johnson made a motion to postpone consideration of the online continuing education discussion until the May meeting. Motion seconded by Dr. Henderson, carried.

## **APPLICATIONS COMMITTEE**

The committee approved 70+ applications in the last week. PACE has made the review process easier. Dr. Henderson participated in a PACE review and reported it was very detailed.

Ms. Stewart reported 1148 inactive and active licensees. As of the report run time, 34 chiropractic and 12 peer review licensees have not completed their 2020 renewal. 120 chiropractic and 11 peer review licensees have not completed their 2021 renewal. 341 licensees have not completed their 2022 renewal.

## **STATUTES AND REGULATIONS COMMITTEE**

The board reviewed HB 493. Dr. England made a motion for Counsel to discuss possible statute amendments with KBVE counsel, especially concerning the creation of a new license type for animal manipulation. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion for Counsel to confirm that the International Academy of Neuromusculoskeletal Medicine (IANM) specialty aligns with the board's specialty requirements in 201 KAR 21:045 and, if it does align, to approve the IANM specialty. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to amend 201 KAR 21:041 Section 4 to clarify that the NBCE's SPEC exam is only needed to reinstate a license after four years of complete practice inactivity and to add the jurisprudence class as a requirement for reinstatement for all applicants. If the applicant has practiced elsewhere during their inactivity in Kentucky, they must show proof of active practice and licensure via a form to be created by counsel to avoid taking the SPEC exam. The form will ask how many patients the applicant saw on average per week and a list of where they worked. Counsel will review and bring to the board a draft amendment. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to recommend the board establish a late fee for continuing education applications as proposed by the Applications Committee. Counsel will review and bring to the board a draft amendment. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to add a passing NBCE Physiotherapy exam score to the requirements for chiropractic licensure. Counsel will review and bring to the board a draft amendment. Motion seconded by Dr. Johnson, carried.

The board reviewed a physiotherapy inquiry. Dr. England made a motion for Counsel to draft and send a response stating the board is contemplating regulatory changes that could apply, but will take several months to complete. Inquirer is free to apply for licensure and will be granted the same authority to practice as all others. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to recommend the board appoint Dr. England to discuss lobbying support for statute changes to KRS 312.145 with the trade organizations. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion for Counsel to respond as discussed to the inquirer re: the ownership question. Motion seconded by Dr. Johnson, carried.

## **COMPLAINTS COMMITTEE**

The Complaints Committee presented the following February 24, 2022 recommendations for board vote:

- 19-003: ongoing
- 2019KBCE00005: ongoing
- 2020KBCE00001: ongoing
- 2020KBCE00007: ongoing
- 2020KBCE00011: ongoing
- 2020KBCE00014: ongoing
- 2021KBCE00001: ongoing
- 2021KBCE00004: Recommend referral to the Peer Review Committee to look for appropriateness of care of the client and if the billing matches the services provided.
- 2021KBCE00008: ongoing
- 2021KBCE00009: Recommend an agreed order with the terms of a voluntarily license surrender and case dismissal.
- 2021KBCE00010: Recommend dismissal.
- 2021KBCE00012: ongoing
- 2021KBCE00013: ongoing
- 2021KBCE00014: ongoing
- 2021KBCE00016: ongoing
- 2021KBCE00017: ongoing
- 2021KBCE00019: ongoing
- 2021KBCE00020: ongoing
- 2021KBCE00021: ongoing
- 2021KBCE00025: ongoing
- 2021KBCE00028: Deferred until next meeting.
- 2021KBCE00029: ongoing
- 2021KBCE00030: ongoing
- 2021KBCE00034: ongoing
- 2021KBCE00036: Recommend re-sending notice of complaint to respondent's business address on file.
- A.M. Guilty Plea: ongoing
- ABC Complaint: ongoing
- Crude Email: Postpone consideration until the last 2022 committee meeting.
- DOI Report: ongoing
- Mass. Complaints: ongoing
- DUI Report: Recommend requesting further court documentation for review.
- 2021KBCE00032 Inquiry: Defer consideration until the next meeting to review documentation.
- FFC Complaint: Recommend referral to the Kentucky Board of Licensure for Massage Therapy.
- 2021KBCE00027 Inquiry: Recommend counsel to draft response.
- 2021KBCE00033 Inquiry: Recommend counsel to draft response.

A motion was made by Dr. England to accept the above-listed complaint committee recommendations as presented for affirmative vote. Motion seconded by Dr. Johnson, carried.

The Complaints Committee presented the following March 10, 2022 recommendations for board vote:

- Active Agreed Orders: Resend letter in 2020KBCE00002 and send jurisprudence class instructions in 2020KBCE00010.
- C.F. Civil Case: Recommend counsel to request a copy of the case resolution.
- S.M. Settlement: Recommend board approve respondent to take the boundaries essay from EBAS and request CV of psychologist for board approval prior to evaluation to fulfill term six of the agreed order.

A motion was made by Dr. England to accept the above-listed complaint committee recommendations as presented for affirmative vote. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to enter closed session to include Board Counsel and the Board Administrator pursuant to KRS 61.815(1) and KRS 61.810(1)(j)(k) to deliberate on individual adjudications in the matter of the Investigative Services Contract. Motion seconded by Dr. Henderson, carried. The board entered closed session at 2:07 p.m.

Dr. Johnson made a motion to exit closed session. Motion seconded by Dr. Henderson, carried. The board entered regular session at 2:16 p.m.

Dr. England made a motion for Counsel to draft an investigators RFP for board review at the next meeting. Motion seconded by Dr. Johnson, carried.

Dr. Johnson made a motion to accept and authorize the Chair to sign agreed order 2021KBCE00020. Motion seconded by Dr. Smith, carried.

Counsel presented a response to 2019KBCE00005. Dr. Johnson made a motion to postpone consideration and send to the complaints committee for review. Motion seconded by Dr. Henderson, carried.

## **TRAVEL AND PER DIEM**

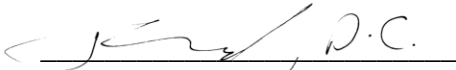
A motion was made by Dr. Johnson to approve the following per diem:

- Drs. Cooper-Henson, England, Henderson, Johnson, and Smith – March 11, 2022 meeting.
- Dr. Cooper-Henson – January 21, 2022 (1.5 hours – applications review), February 13, 2022 (1.5 hours – applications review), and March 6, 2022 (3 hours – applications review).
- Dr. England – February 2, 2022 (3 hours – complaints review and meeting), March 3, 2022 (3 hours –meeting and regulation changes), March 8, 2022 (3 hours – meeting and regulation changes), and March 10, 2022 (3 hours – complaints review and meeting).
- Dr. Henderson – March 3, 2022 (3 hours – applications review).
- Dr. Johnson – February 14, 2022 (3 hours – complaints review), February 24, 2022 (2 hours – complaints review and meeting), March 3, 2022 (1.5 hours – regulation changes and meeting preparation), and March 10, 2022 (2 hours – meeting preparation).
- Dr. Smith – February 14, 2022 (3 hours – correspondence and application review), and March 3, 2022 (1 hour 20 minutes – correspondence and application review).

Motion seconded by Dr. Smith, carried.

**ADJOURN**

A motion was made by Dr. Henderson to adjourn the meeting at 2:28 p.m. Motion seconded by Dr. England, carried.

  
Dr. James England, Vice Chair